



*United States Attorney
Eastern District of New York*

*271 Cadman Plaza East
Brooklyn, New York 11201*

February 12, 2021

By ECF

The Honorable Margo K. Brodie
Chief United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Federal Defenders of NY, Inc. v. Federal Bureau of Prisons, et al.*
Civil Docket No. 19-cv-660 (Brodie, Ch. J.)(Kuo, M.J.)

Dear Chief Judge Brodie:

This Office represents Defendants Federal Bureau of Prisons (“BOP”) and the Warden of the Metropolitan Detention Center (“MDC”) in the above-referenced matter. We write in advance of the parties’ February 17 status letters, to advise the Court that MDC will be unable to install additional telephone lines in every remaining housing unit on or before the date of the next status conference. We respectfully request, in light of the efforts MDC has made to reduce any telephone call backlog, that the Court allow Defendants to discuss this matter further with the Plaintiff and the mediation team, and ultimately provide an updated estimated date for completion of the installation of the additional phone lines in Defendants’ upcoming status letter.

As discussed in previous status letters, MDC is making diligent efforts to assure that it can place every legal telephone call request within 48 hours of the request (excluding weekends and holidays). To this end, in late December, MDC undertook a project of installing an additional telephone line in each housing unit. The ultimate goal is for the facility to facilitate legal telephone calls in a private area within each housing unit without using staff offices for this purpose, a system that would require a less staff-intensive process to facilitate calls. The project has the added benefit of creating additional capacity during times of high demand, and is expected to virtually eliminate backlogs during these periods.

The process of installing telephones in each housing unit requires facility staff to engage in a labor-intensive process of routing certain wiring through the floors of each unit. Facilities staff has worked to expedite this project, but quite simply, there have not been enough staff at the facility to do so, while addressing both urgent and routine maintenance needs essential to the safe running of the institution. This past week, for example, only two facilities staff members were available to address all facility issues at the institution. MDC continues to work to obtain additional staff, including by having staff detailed to the facility. However, these staff members have not yet arrived. Nevertheless, MDC expects to bring at least some additional telephone lines online by our next conference.

While Defendants continue to make efforts to complete this project as quickly as possible, in the short term, MDC has worked to alleviate any call backlog by maximizing capacity (including the currently installed telephone lines) and authorizing overtime hours for staff to complete calls. Because of these efforts, upon information and belief, MDC only has three pending call requests that were not scheduled within 48 hours.¹

In light of these developments – the combination of limited staffing and success in near-elimination of a telephone call backlog – we respectfully request that the Court allow Defendants to provide an estimated date for completion of all telephone lines in its upcoming status report. In the meantime, MDC will continue to take other steps, such as seeking detailed facility staff to assist in installing the telephones and authorizing staff overtime to place telephone calls to ensure that MDC can complete calls in a timely manner.

We thank the Court for its consideration of this matter.

Respectfully submitted,

SETH D. DUCHARME
Acting United States Attorney

By: /s/
Seth D. Eichenholtz
Sean P. Greene-Delgado
Matthew J. Modafferi
Assistant U.S. Attorneys
718-254-7036/6484/6229
seth.eichenholtz@usdoj.gov
sean.greene@usdoj.gov
matthew.modafferi@usdoj.gov

cc: Counsel of Record (By ECF)

Loretta E. Lynch
Roberto Finzi
Norhan Bassiouny
Paul, Weiss, Rifkind, Wharton & Garrison LLP

Jeffrey Oestericher
Assistant U.S. Attorney
U.S. Attorney's Office, S.D.N.Y.

¹ Most requests not scheduled within 48 hours are requests for VTCs. Defendants intend to present a plan to mitigate this issue at the parties' next mediation session and ahead of the upcoming status letters. As discussed in detail during the February 5 Status Conference, MDC is also in the process of obtaining equipment to provide expanded VTC capacity.